THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24821 OF 2005

Dated: 21-11-2005

Between

Smt. K. Appala Konda @ Lalitha, W/o. K. Ramana Kumar, Fair Price Shop Dealer, F.P. Shop No.89, Circle No.1, Visakhapatnam.

...PETITIONER

AND

The District Supply Officer (City), Civil Supplies Department, Visakhapatnam and another.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the first respondent in issuing Proceedings No.293/05/CSC.1 dated 17.11.2005 as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the respondents at the admission stage.

Petitioner was appointed as a Fair Price Shop Dealer in respect of Fair Price Shop No.89, Circle No.1, Visakhapatnam in the year 1999. While so, a show cause notice dated 17.09.2005 has been issued to the petitioner to explain as to why her authorization should

not be cancelled within two days from the date of receipt of the said notice alleging that her husband Mr. K. Ramana Kumar, is working as Lab Assistant in the Office of the Commissioner of Customs, Visakhapatnam, which is a Central Government Department and as such she has violated the rule 12(3) of the guidelines issued in G.O.Ms.No.198, CA, F & CS, (CS-4) Department dated 06.12.1996 and G.O.Ms.No.53, CA, F & CS, (CS-I) Department Dated 06.10.2003, which implies that spouses of any person working in the Government Department are not entitled for Fair Price Shop dealership.

Petitioner filed a representation dated 10.10.2005 requesting the authorities to supply her the copies of said G.Os and accordingly the first respondent supplied the copies of the said G.Os by proceedings dated 17.10.2005. Thereafter, the petitioner vide her letter dated 20.10.2005 requested the first respondent to grant 25 days to submit her reply. The period of 25 days expires on 15.11.2005.

The impugned proceedings dated 17.11.2005 goes to show that even after giving sufficient time for submission of reply to the show cause notice the petitioner did not submit her explanation.
On 17.11.2005 the petitioner filed another representation stating that she is not keeping good health and requested 10 more days to submit her reply.

Learned counsel for the petitioner submits that none of the clauses of the aforesaid two G.Os disqualify the petitioner to hold and continue the dealership of the fair price shop as the said guideline applies to the persons working in the State Government but not in the Central Government.

However, as there is an effective alternative remedy of appeal available against the impugned proceedings before the Joint Collector, Visakhapatnam under Clause 20 of the Andhra Pradesh State Public Distribution System Control Order, 2001, I am not inclined to express any opinion on merits and it is for the appellate authority to consider and pass appropriate orders as to whether any of the clauses or rules of the aforesaid G.Os prohibits the petitioner from holding dealership of the said fair price shop.

The writ petition is accordingly disposed of permitting the petitioner to file an appeal before the Joint Collector within two weeks from the date of receipt of a copy of this order and on such an appeal being filed, the appellate authority may consider and dispose of the same in accordance with law within six weeks thereafter giving reasonable opportunity to the petitioner.

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V. ESWARAIAH, J

November 21, 2005

Note: Furnish copy in two days

(B/o)

DSK